

REMARKS

The Examiner has rejected claims 1 and 9 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Applicants respectfully traverse the Examiners rejection of claims 1 and 9. Applicants contend that there was/and is ample support for the addition of the term “stand alone” in the specification as filed and this addition only further describes that which was present at filing. Specifically, the last sentence of paragraph 10 states: “The head assembly 12 is completely sealed and hydraulic fluid 18 from the fluid system 20 drains back to the reservoir 26, as is schematically represented in the drawing.” Further, the third sentence in paragraph 19 states “Since the fluid system 20 is isolated from other engine fluid systems, such as an engine lubrication system or a fuel supply system...”. The single Figure in the specification clearly only shows a “stand alone” reservoir 26 that contains a fluid 18 that are only connected to subassemblies 13 positioned in a head 12 of an internal combustion engine 10. Both claims 1 and 9, as originally filed include the limitation that “a fluid pump (claim 1) or a fluid system (claim 9) used solely for actuating the at least one subsystem”. MPEP 2163.03 states: An applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using such descriptive means as words, structures, figures, diagrams, and formulas that fully set forth the claimed invention. Applicants contend that he aforementioned excerpts from the specification, claims and direct indication in the Figure is clear evidence that was described in the specification is such a way as to reasonably convey the meaning to one skilled in the relevant art. Furthermore MPEP 2163.03 states “**The subject matter of the claim need not be described literally** (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement. If a claim is amended to **include subject matter, limitations, or terminology not present in the application as filed, involving a departure from, addition to, or deletion from the disclosure of the application as filed**, the examiner should conclude that the claimed subject matter is not described in that application. Applicants contend that the

addition of the term “stand alone” does not depart from, add to, or delete from the disclosure of the application as filed. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. 112, first paragraph.

The Examiner has rejected claims 1-2, 6-9, and 11-13 under 35 U.S.C. §102(b) as anticipated by Hu US Patent 5,680,841.

Applicants again respectfully traverse the Examiners rejection because the Hu reference does not expressly or inherently teach every limitation of the claims. MPEP 3131 expressly states: “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Specifically, the Hu reference does not teach or even suggest that the fluid system is “a stand alone fluid system” used SOLELY for actuating the at least one subsystem positioned in the head assembly. The only support for the Examiner’s rejection in the prior art of Hu is in lines 12-13 of column 4 that read, “The hydraulic fluid may be engine lubricating oil, engine fuel, or any other suitable fluid”. Not only is this sentence void of the teaching that the fluid is used “SOLELY” for actuating the at least one subsystem positioned in the head assembly, but it also teaches away from this limitation. This sentence teaches away from the claimed invention in that if the fluid were engine lubricating oil or engine fuel the system would not be used “SOLELY” for actuating at least one subsystem positioned in the head assembly and completely destroys the purpose and intent of the invention disclosed and claimed. Furthermore, the Hu reference teaches a fluid system to improve cam and valve interaction. This does not address the problem of keeping the operating fluid free from contaminants of combustion or controlling the temperature for purposes of response time of the systems. Without the teaching of the problem and the missing limitations as set forth above the Hu reference cannot anticipate the claims 1 and 9 either expressly or inherently. The Examiner further states in item 8 of the Official Action paper 9 that the reservoir 26 in claim 1 appears to have fluid connections in between the reservoir, heater 32, and the surroundings. Therefore, the reservoir would not be “a stand alone fluid system”. The Examiner has clearly misinterpreted the entire intent of the claimed invention. The intent of the term stand alone is that the reservoir and the remainder of the fluid system is isolated/not commingled with any other fluid operation/system “hence dedicated for providing operational fluid control of the

subassemblies positioned in the head of the internal combustion engine. Furthermore the Examiner states” that the reservoir could be part of a transmission fluid system, or power steering system, or brake fluid system, etc. As set forth above this is clearly spelled out in several locations in the specification, drawings, and claims as originally filed, and as set forth above, the system is used “SOLELY” for actuating at least one subsystem positioned in the head assembly. Applicants are perplexed as to how the Examiner can read this into the disclosure at hand since the description pertains only to an internal combustion engine and specifically states that the system is isolated and used “SOLELY” for actuating.... Further, as stated above the third sentence in paragraph 19 states “Since the fluid system 20 is isolated from other engine fluid systems, such as an engine lubrication system or a fuel supply system...”. Applicants again agree that the Hu reference does state “the hydraulic fluid may be ... any other suitable fluid” but is completely void of any teaching or suggestion that it is unnecessary to share such a fluid with a conventional, existing fluid subsystem. As set forth above the mere fact that Hu states the fluid could be engine lubricating oil, or engine fuel teaches the exact opposite of the Examiners view point in this regard. Applicants contend that the reference does suggest that other fluids could be used to perform the hydraulic functions, however the Hu reference, and for that matter any of the art of record, is void of a teaching or suggestion that the fluid system be a self contained stand alone system. Applicants therefore contend that independent claims 1 and 9 are not anticipated by the Hu reference and respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b).

Regarding claims 2, 6-8 and 11-13, these claims add further limitations to independent claims 1 and 9 and therefore are believed to be allowable for at least the same reasons. Applicants therefore respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b) of claims 2, 6-8 and 11-13.

The Examiner has rejected claims 5 and 10 under 35 U.S.C. §103(a) as being anticipated by Hu US Patent 5,680,841 (as applied to claims 1 and 9 above) in view of Glassey US Patent 5,191,867. The Examiner further explains that the Hu reference teaches all of the limitations of the present invention, except for the subsystem being a fuel injection system, which is taught by Glassey.

Applicants respectfully traverse the Examiners rejections for the same reasons as argued above. Hu does not teach that the fluid system is a stand alone system used solely for actuating a subsystem positioned in the head assembly. Therefore, the combination of Hu and Glassey does not teach or even suggest the combination of elements as set forth in the present application and respectfully requests withdrawal of the rejections under 35 U.S.C. §103(a) and reconsideration of claims 5 and 10 of the present application.

The Examiner has rejected claims 3-4 and 14 under 35 U.S.C. §103(a) as being anticipated by Hu US Patent 5,680,841 (as applied to claims 1-2, 9 and 13 above) in view of Bartley US Patent 6,220,521. The Examiner further explains that the Hu reference teaches all of the limitations of the present invention, except for the fluid system including a heat exchanger to control fluid temperature, which is taught in Bartley.

Applicants respectfully traverse the Examiners rejections for the same reasons as argued above. Hu does not teach that the fluid system is used solely for actuating a subsystem positioned in the head assembly. Therefore, the combination of Hu and Bartley does not teach or even suggest the combination of elements as set forth in the present application and respectfully requests withdrawal of the rejections under 35 U.S.C. §103(a) and reconsideration of claims 3-4 and 14 of the present application.

If the Examiner continues to persist in the rejections set forth in paper 9 Applicants will have no other alternative than to appeal the rejections.

It is respectfully urged that the subject application is in condition for allowance and allowance of the application at issue is respectfully requested.

Respectfully submitted,

  
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